



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

LNO/166620

PRELIMINARY RECITALS

Pursuant to a petition filed June 12, 2015, under Wis. Admin. Code § DCF 201.07(1)(e), to review a decision by the Milwaukee Early Care Administration - MECA in regard to Other, a hearing was held on July 28, 2015, at Milwaukee, Wisconsin. The record was held open post-hearing to allow the Petitioner to submit additional evidence. The Petitioner submitted additional evidence and the record was closed on October 2, 2015.

The issue for determination is whether the agency properly issued a warrant to the Petitioner for unpaid public assistance debt.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Children and Families
201 East Washington Avenue, Room G200
Madison, Wisconsin 53703

By: Destiny Cooper

Milwaukee Early Care Administration - MECA
Department of Children And Families
1220 W. Vliet St. 2nd Floor, 200 East
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.

2. On December 8, 2014, the agency issued Child Care Client Overpayment Notices and worksheets to the Petitioner and her husband [REDACTED] in Milwaukee. The notices informed the Petitioner that the agency is seeking to recover an overissuance of child care benefits in the amount of \$31,115 for the period of December 1, 2010 – November 30, 2014 for failure to report a change in household income and for “other.” The notice also informed the Petitioner of the right to request a hearing by filing an appeal with the Division of Hearings and Appeals within 45 days of the date of the notice.
3. On February 3, 2015, March 3, 2015 and April 2, 2015, the agency issued dunning notices to the Petitioner and [REDACTED] address.
4. On June 10, 2015, the agency issued a Notice of Warrant Docketed to the Petitioner at her [REDACTED] address in Milwaukee. The notice informed the Petitioner that a warrant has been docketed for the collection of a delinquent child care debt.
5. On June 12, 2015, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

A hearing officer can only rule on the merits of a case if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. An appeal of a negative action by an agency concerning child care benefits must be filed within 45 days of the date of the action. Wisconsin Shares Child Care Manual (CCM) § 3.5.3.

In this case, the Petitioner’s appeal of the notice of warrant is timely. However, the Petitioner disputes the underlying child care overissuance determination. The notice of overpayment was issued by the agency on December 8, 2014. The Petitioner testified that she faxed an appeal to a fax number belonging to the Department of Children and Families. She did not know the date that it was faxed but the letter is dated January 12, 2015. She does not have a fax confirmation. She stated that she did not hear anything or receive anything that her appeal had been received. At some point she called an 800 number after she received some additional notices from the agency sent via certified mail.

Post-hearing, the Petitioner submitted a copy of a letter dated January 12, 2015. The letter is addressed to the Division of Hearings and Appeals at the correct PO Box.

Without any additional evidence, I cannot find that the Petitioner’s appeal was timely. Though the Petitioner testified that she mailed an appeal to DHA within 45 days of the date of the December 8, 2014 notice of overpayment, the evidence she submitted is insufficient to establish that the appeal was actually submitted to DHA within the 45 day deadline.

Based on the information provided, I conclude that the Petitioner’s appeal was untimely with regard to the overpayment issue and DHA has no jurisdiction to review the merits of the overpayment.

With regard to the warrant action, I conclude that the agency properly issued the warrant based on an unpaid public assistance debt for an established overissuance of child care benefits.

CONCLUSIONS OF LAW

The Petitioner’s appeal is untimely.

THEREFORE, it is

ORDERED

That the Petitioner’s appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 East Washington Avenue, Room G200, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 30th day of October, 2015

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on October 30, 2015.

Milwaukee Early Care Administration - MECA
Public Assistance Collection Unit